



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 11, 1993

Mr. William DeWitt Alsup
Staff Attorney
Memorial Medical Center
2606 Hospital Boulevard
Corpus Christi, Texas 78405-1818

OR93-002

Dear Mr. Alsup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 18075.

The Nueces County Hospital District (the "hospital district") has received a request for information relating to the relationship between Memorial Medical Center and a certain nonprofit organization. Specifically, the requestor seeks "a copy of the lease agreement Memorial Hospital had with the Hearth Corporation," and "[a] copy of the amount [of] money donated to Memorial Hospital when the corporation dissolved in 1988." In addition, the requestor seeks information relating to "any other business the hospital contracted with this corporation." The hospital district does not object to release of the requested lease agreement. You claim, however, that information relating to contributions from The Hearth to the hospital district is made confidential by the terms of a contract entered into by these two parties.¹ As you do not comment on the remainder of the requested information, we presume that it has been or will be made available to the requestor. See Open Records Decision No. 363 (1983).

A governmental body may agree or contract to keep information confidential only if a statute specifically authorizes it to do so.² See Open Records Decision Nos. 514 (1988) at 1-2; 444 at 6, 437 at 4 (1986); 414 (1984) at 3. You do not indicate, nor is it otherwise apparent, that a statute specifically authorizes the hospital district to contract to


¹The hospital district advises us that it "has no 'copy of the amount of money donated.'" It concedes, however, that the amount of money donated is known. For purposes of this ruling, we assume that the hospital district is in possession of records that reveal the amount of money donated, as requested. Of course, the Open Records Act does not obligate the hospital district to make available records that it does not possess. See Open Records Decision Nos. 572, 558 (1990); 452 (1986).

²However, to avoid the constitutional prohibition against impairment of the obligation of contracts, a governmental body may withhold agreements it entered prior to June 14, 1973, pursuant to an express promise of confidentiality. Open Records Decision No. 284 (1981).

keep information confidential, as the hospital district attempted to do by executing the confidentiality provision of its contract with The Hearth. We conclude that the terms of the contract do not make the requested information confidential. Accordingly, the requested information must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-002.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 18075
ID# 18113

cc: Ms. Gay Nell Harper
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Corpus Christi, Texas 78413